



The Highest Quality Perlite Ore... And the Service to Match

TO DIVISION OF OIL, GAS & MINING JUNE 4, 1997
ATTENTION OF: MARY ANN WRIGHT FAX NO. (801) 359-3940
FROM DANIEL GATTEN

NO OF SHEETS INCLUDING THIS ONE THIRTEEN (13)

RE: POP RESPONST TO PROTEST
LETTERS RE: Approval of M/001/027

-Darryl

If all copies are not received please call (801)387 2100

P.O. Box 490
533 S. Industrial Loop Rd.
Milford, Utah 84751

Phone (801) 387-2100
Fax (801) 387-2403

0011



The Highest Quality Perlite Ore... And the Service to Match

MS. MARY ANN WRIGHT
ASSOCIATE DIRECTOR OF MINING
UTAH STATE DIVISION OF OIL, GAS AND MINING
1594 WEST NORTH TEMPLE STREET
P.O. BOX 145801
SALT LAKE CITY, UTAH 84114-5801

June 3, 1997

RE: Division's Tentative Decision to Approve Pearl Queen Perlite Corporation's Beaver County Perlite Mine No. M/001/027;
Response to Protest Letters Received During Public Comment.

Dear Ms. Wright:

I appreciated having the opportunity to talk with you by phone this week regarding the two protest letters received by your offices regarding approval of M/001/027. As we discussed, there are several routes PQP can take to deal with the letters and address the cultural resource-related concerns expressed in the two letters.

After reviewing the available data and discussing this issue with my associates at Pearl Queen Perlite, my conclusion is that the protest letters do not address any of the legal facts in this case, and further, they lack content of any substance.

My decision is to appeal to you and your Division to declare the two protest letters as without significant merit. I ask you to find that the reasons and arguments given by these protests do not deserve a public hearing, as they do not offer any responsible reasons to impair this business development.

The main point in this case is simple. We have satisfied all legal requirements necessary as regards cultural resources impact assessment and mitigation. And neither of these protest letters addresses any negligence in our compliance process, nor does either offer any credible evidence of any kind which would indicate the "No Significant Impact" letters we have from two state archaeologists are wrong or negligent.

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In applying for the Large Mine Permit, we have always been fully aware of our responsibility to satisfy all cultural resource assessment and preservation laws. We understand this to be done by having a state-approved archaeologist look at the mine area and assess its cultural resources value, if any. If there proved to be cultural resource sites of significant value, we knew we would be responsible to finance the process through which such resources would be studied, analyzed and catalogued, prior to being disturbed by mining. If such a study proved too costly, or if the resources were of exceptional value, we have always known we could not mine in such an area.

Our understanding has further been, that provided there are no significant archaeological resources facing disturbance, the archaeologist then issues a statement of "no significant impact," and the legal and permitting requirements on our part would then be satisfied.

Pearl Queen Perlite has been through this process not once, but twice. We do not wish to do so a third time. We have had the property studied by two state-approved archaeologists; both of whom have issued written statements that mining operations at this site will have "no significant impact" on possible cultural resources.

The first of these archaeologists is Mr. Kenneth Wintch, State Archaeologist for the Division of School and Institutional Trust Lands. The mine site is in fact owned by DSITL, and by definition, DSITL has far and away the most to lose by poor management of any of the resources on their property. You are in receipt of his written opinion and "No Significant Impact" findings.

The second of these archaeologists is Mr. James L. Dykmann, Chief Compliance Archaeologist for the Utah State Historical Society. As you know, the USHS has by far the greatest responsibility of any State agency for the care and preservation of the cultural and historical resources of Utah, and this agency also has a great deal to lose if they poorly manage these assets. USHS is the entity which certifies archaeologists requesting state approval, and they literally have the final word on any archaeological issues within the State. Please see Mr. Dykmann's written opinion, if you do not already have it on file, and "No Effect" finding attached hereto as Exhibit "A".

We have complied with our requirements, and we have done so through archaeologists who have not benefitted one dollar for their unqualified findings of absolutely "No Significant Impact" or "No Impact". These archaeologists represent the groups which would lose most if they were to be negligent in such findings.

We ask the Division of Oil, Gas and Mining to recognize that we are in exemplary compliance in cultural resource laws. We ask the Division to require evidence of non-compliance on our part, or evidence of negligence on the part of the State's archaeologists, or even simply evidence of any actual cultural resources site at the mine area, before giving credence to these protests.

As you know, there will always be individuals who do not understand the necessity of the legal, responsible usage of natural resources in maintaining our economy and country and standard of living. That is the case with this issue. There is no objective criticism of any legal compliance or of the methodology of the State's archaeologists. The protests offer no identification or evidence of any kind to support a belief of the existence of cultural resource sites in the mine area. Your response to these protest letters should therefore be rejection due to a lack of any material or substantive content.

If you allow these individuals, at their whim, with no legitimate reason and offering no evidence, to re-require a company to go through compliances again and again, they will eventually gain their purpose which is banishment of multiple-use of public lands for the benefit of the great majority, and the emergence of single-use of public lands for the benefit of the great minority.

We are completely willing to respond to any evidence or criticism of substance about our archaeological compliances, but there is none in either of the protest letters.

I want to make some further points regarding the mine area and the low probability it could possibly contain significant prehistoric sites which were missed by the State archaeologists.

First, the geology and hydrology of the mine area and surrounding areas indicate a very high probability that Indians did not camp, quarry, live, make tools, etc. anywhere on the area to be mined. Please see the attached geological map, Exhibit "B" and refer to the left 1/2 of Figure 5b. Looking North, this shows the position of the perlite ore to the obsidian flow.

The perlite ore is on top of the obsidian, and the entire area to be mined lies on the perlite flow. There are no obsidian outcrops, and very, very little obsidian float upon the crest of the hill and the perlite ore. The outcrops of obsidian, since it is underneath the perlite ore, occur at a lower elevation on the hill than the perlite, and the outcrops occur to the North, South, and West of the perlite flow. Sure, there is obsidian underneath the perlite ore, but except at the outcrops and resulting flows of the obsidian, the Indians had no access to it.

The Indians could not quarry or dig obsidian within the mine area, which follows the flow of the crest of the hill, because the area is covered with perlite. The Indians recovered obsidian from the outcrops occurring below the perlite ore, and flowing down the hill from these outcrops.

Please also see a top-view attached geological map, Exhibit "C" which looks down on the perlite flow. You can see how the perlite ore is the uppermost material; the lightest weighted material during the volcanic flow which created the ridge. The obsidian occurs where it is exposed beneath and to the sides of the perlite ore flow. See Exhibit "D" also for a top-view of the occurrence of the obsidian flows below the mine area.

Also, regardless of where the Indians obtained their obsidian, they cannot be imagined to have frequently camped away from water, when water was nearby. There are a number of springs surrounding the mine area. Some are within 1 mile of the mine area. These springs have been documented as the areas in which the Indians camped and worked their obsidian points and tools. Please see Exhibit "E" showing all known cultural resources sites by USHS and government registers.

There are significant obsidian work and camp sites to the South of the mine area in Rock Corral Canyon, to the West of the mine area at Yellow Banks, and to the Northwest of the mine area at Blackrock. The Indians camped at these spots because they were on flowing water and provided more game, fish and safety for the Indians. The Indians did not make camp or residence on top of the perlite flow, where there are no obsidian outcrops or flows or game or water; they made their camps and homes and tooling areas at places with water.

Adella Schroth of Gallegos and Associates is exactly right in her letter when she says "The area around the existing perlite mine contains numerous obsidian flows." The key word here is "around." There are no obsidian outcrops or flows within the area to be mined. I further agree that Ms Schroth is exactly correct in her statement "The prehistoric quarry areas around the perlite mine need to be investigated prior to destruction by modern man." I doubt I agree with her on the extent needed of such investigation, but I do agree with her that it needs to be done.

The point is, for purposes of POP, she is again speaking of flows that have nothing to do with the mine area. There are no obsidian flows in the mine area, and although there are many lithic sites around the mine area, POP will harm none of them.

As an added consideration to the letter by Ms Schroth, I am inclined to place much more faith in the two Utah State Archaeologists who have visited and cleared the mine area, than I place in Ms. Schroth's academia contacts from Washington and West Virginia who offer advice to Utah from their far away offices.

Mari Parker, in her letter in which she maintains there exists a prehistoric quarry area directly south of the initial mine area, offers no evidence of any such site. I have said already that I believe geologically that an obsidian quarry site within the mine area is hardly feasible. Understand that if that were the case, we would not, could not, mine that specific area. Perlite ore must be pure, and obsidian contamination would put us out of business very quickly. Everything else in Ms. Parker's letter is personal or refers to areas such as the pipeline area or the top of the Bailey Ridge Flow which have nothing to do with us at all.

The two Utah State Archaeologists cleared this site without finding any evidence of Ms. Parker's claimed quarry area upon the perlite flow. I have never talked with or read about or received any knowledge that this site exists. There is no federal or state record showing any cultural resource site upon this perlite flow. In significant research on the part of PQP, including conferring with professional, private archaeological firms, we have found absolutely nothing indicating any such site.

I wish to make one final point. As the Division of Institutional and Trust Lands is aware and can document for the Division, the entire crown of the perlite ore body located within the Southeast Quarter of Section 2 (the mine area) has been chained previously. This practice involves two large dozers with a large chain tied between them crossing an area to uproot and drag into piles for burning of the pinon-juniper pines for the purpose of allowing more beneficial vegetation to grow for wildlife and grazing.

Understand that the topsoil upon the perlite in the mine area reaches a maximum depth of about 12 inches. Most of the area has approximately 8 inches of topsoil. This soil is also very, very rocky, and below the soil lies the perlitic bedrock. Any cultural resource sites would obviously have to lie above the bedrock within this 8 to 12 inch topsoil layer. The geology dictates that the probability the mine area contains a stratified archaeological site within such a thin layer is very low.

Additionally, considering the total disturbance and mixing of the topsoil layer during the violent process of chaining, and the irrefutable fact that any artifacts would be disturbed and moved, possibly for distances of hundreds of feet, etc., you can see that no reputable archaeologist could possibly make a methodologically-sound case for ascertaining knowledge from any archaeological site or artifact that may be found in the chained area (which includes all of the mine area).

In summary, we have fully complied with all requirements of cultural resource assessment and mitigation (twice), as attested to by two Utah State Archaeologists as required by law. Neither of the two protest letters gives any evidence which calls into question anything about our compliance and the approval given by these archaeologists. On this basis, your duty is to declare our compliances as valid, and the letters as immaterial.

If this is not enough, you should be able to see clearly that the "protest" letter by Gallegos is not a protest letter at all, as it clearly refers to obsidian areas and workings which are around and nearby the mine area, but definitely not a part of the mine area, and they will not be disturbed by PQP.

Two state archaeologists cleared this site, making no mention of any such quarry site as purported by Ms. Parker. You have my assurance that if there does exist an obsidian outcrop and quarry as she insists, I would have no choice but to mine toward the North and East and avoid the outcrop to keep my ore clean. You also know that no record exists in any state or federal register of archaeological sites supporting Ms. Parker's claim.

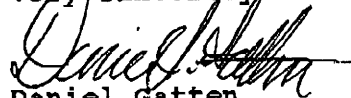
Further, geologically, you now know the low probability of the existence of an obsidian outcrop in the mine area which could have been quarried by Indians. You also know that the probability of an undisturbed, stratified site of academic value existing in a bed of 8 to 12 inches of soil, after this soil has being chained and severely mixed, is very low, indeed.

Bear in mind also that this project will employ 41 people at commencement, at wage rates which are very high for this rural and economically depressed area. Also be advised that all perlite mined over the next several decades from this area will result in a significant royalty (several tens of thousands of dollars annually) payable to School and Institutional Trust Lands for the benefit of the education of Utah's children.

Please bear in mind how many people would be hurt, how many school children would lose benefits, and how disastrous it would be to deny this depressed area of 41 high-paying jobs. And that is exactly what is at stake. If you fail to do your job now, that is what can result, and that is what these protestors want to result. I urge you to consider the effects of the success or failure of this business, before you consider the wishes of two Southern California archaeologists who have no material evidence, nor any material claim to back their wish to halt this project.

Make no mistake about it: this issue has nothing to do with archaeology. These letters were not written out of scientific concerns, rather they were designed to further personal political and environmental agendas on the part of the writers. They were written with complete and malicious disregard for the quality of life and welfare of southern Utah families and Utah schoolchildren. Since the letters have no facts, they represent only a grandiose effort to preserve Utah as a park and a playground for citizens from Southern California and the like.

Very Sincerely Yours:


Daniel Gatten
Project Coordinator

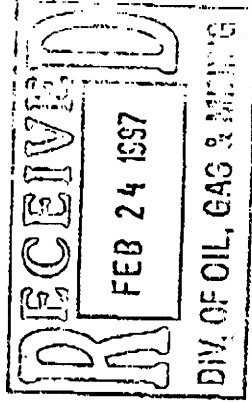
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CC:OJG/LMPfile

EXHIBIT

APPENDIX A

Pearl Queen Perlite Corporation
Map of Disturbed Surface Areas

(Years 1-20)



LEGEND OF MAPS	
Crusher Pad/ Waste Rock Disposal Site	
Mine Access Road	
Mine Area (Years 1-5)	
Soil Stockpiles	
Brush/Grub Stockpile	

PEARL QUEEN PERLITE CORPORATION

P.O. Box 490

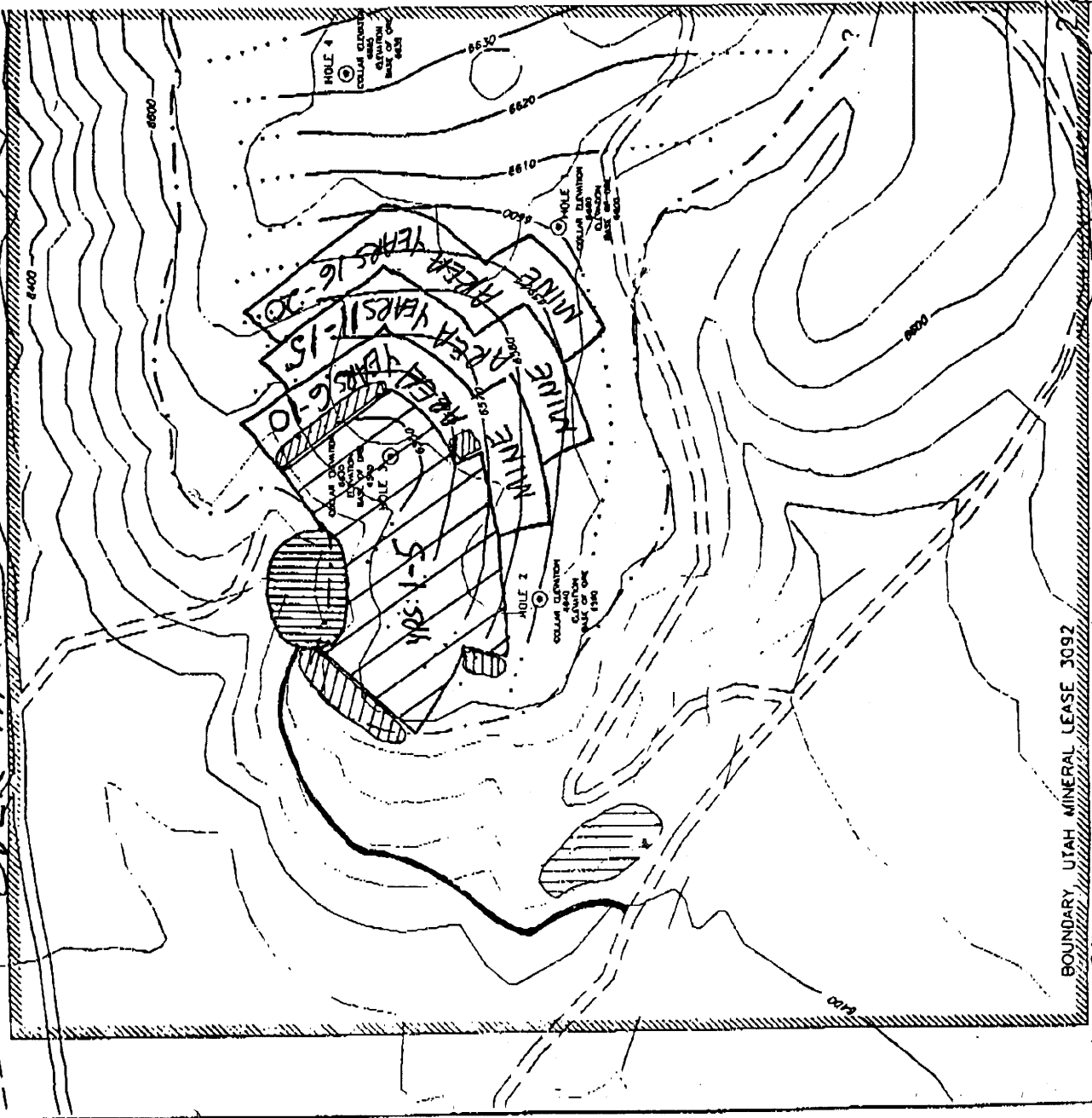
Milford, Utah 84751

Prepared By: DANIEL GATTEN,

PROJECT COORDINATOR

February 10, 1997

THIS MAP SHOWS ROP AREAS TO BE DISTURBED
OVER THE NEXT 20 YEARS



BOUNDARY, UTAH MINERAL LEASE 3092

SE QUARTER OF SECTION 2, R 9W, T 27S, S6BN

BEAVER COUNTY, UTAH



EXHIBIT "A"



Department of Community & Economic Development
Division of State History
Utah State Historical Society

Michael O. Leavitt
Governor
Max J. Evans
Director

300 Rio Grande
Salt Lake City, Utah 84101-1162
(801) 533-3500 • FAX: 533-3503 • TDD: 533-3502
cehistory.ushs@email.state.ut.us

April 29, 1997

O. Jay Gatten
Pearl Queen Perlite Corporation
472 North Main
Kaysville UT 84037-1173

RE: Pearl Queen Perlite Quarry

In Reply Please Refer to Case No. 96-0286

Dear Mr. Gatten:

The Utah State Historic Preservation Office received the above referenced request on April 23, 1997. After review of the material provided, the Utah Preservation Office recommends that there would be **No Effect** upon cultural resources by the project.

This information is provided on request to assist Trust Lands with its state law responsibilities as specified in U.A.C. 9-8-404. If you have questions, please contact me at (801) 533-3555. My email address is: jdykman@history.state.ut.us

As ever,


James L. Dykman
Compliance Archaeologist

JLD:96-0286 OR

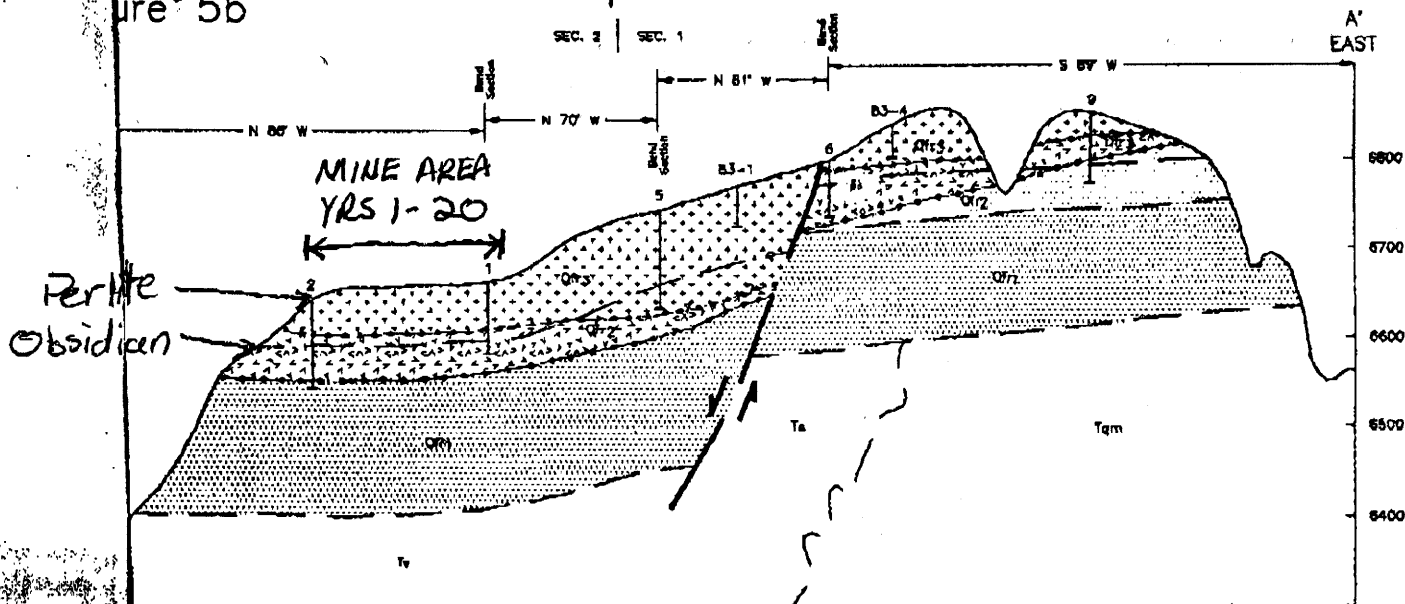
c: A. Richard Osmond, Director, Business/Community Programs, Rural Development,
Wallace F. Bennett Federal Building, Room 4431, 125 South State Street
Salt Lake City UT 84138

F:\CULTURAL\JIM96-0286

Preserving and Sharing Utah's Past for the Present and Future

ENTIRE EXHIBIT K

Figure 5b ← MINE AREA →



CROSS SECTION A-A' LIMITS OF HYDRATION OF OBSIDIAN TO PERLITE

SCALE

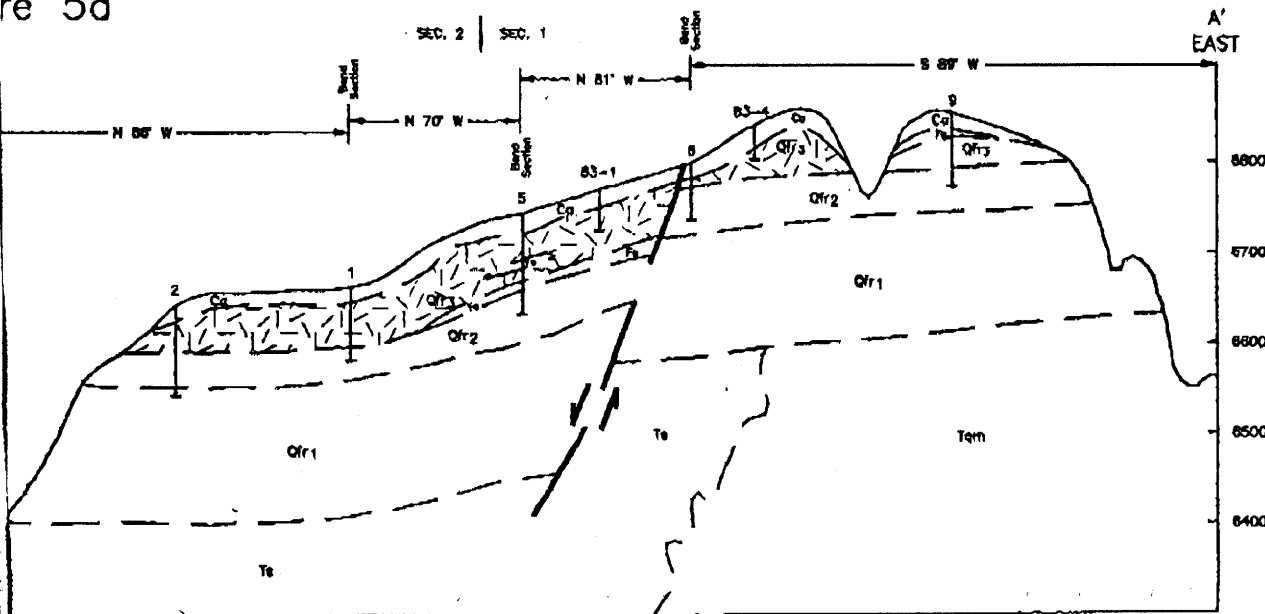
1"=1000'



Complete Hydration of Obsidian to Perlite

Incomplete Hydration of Obsidian to Perlite

Figure 5d



CROSS SECTION A-A' LIMITS OF CLEAN PERLITE

SCALE

1"=1000'



Clean Perlite

EXHIBIT "C" OVERVIEW OF MINE AREA &
THE PERLITE FLOW. THE --- LINE MARKS
THE BOUNDARIES OF THE PERLITE FLOW & THE START

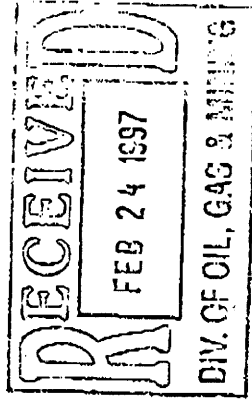


EXHIBIT "B" OBSIDIAN OUTCROPS NEAR MINE AREA

APPENDIX "A"

Pearl Queen Perlite Corporation
Map of Disturbed Surface Areas

(Years 1-20)



UPPERMOST
OBSIDIAN OUTCROPS - 11111

LEGEND OF MAP	
Crusher Pad/ Waste Rock Disposal Site	
Mine Access Road	
Mine Area (Years 1-20)	
Soil Stockpiles	
Brush/Grub Stockpile	

PEARL QUEEN PERLITE CORPORATION

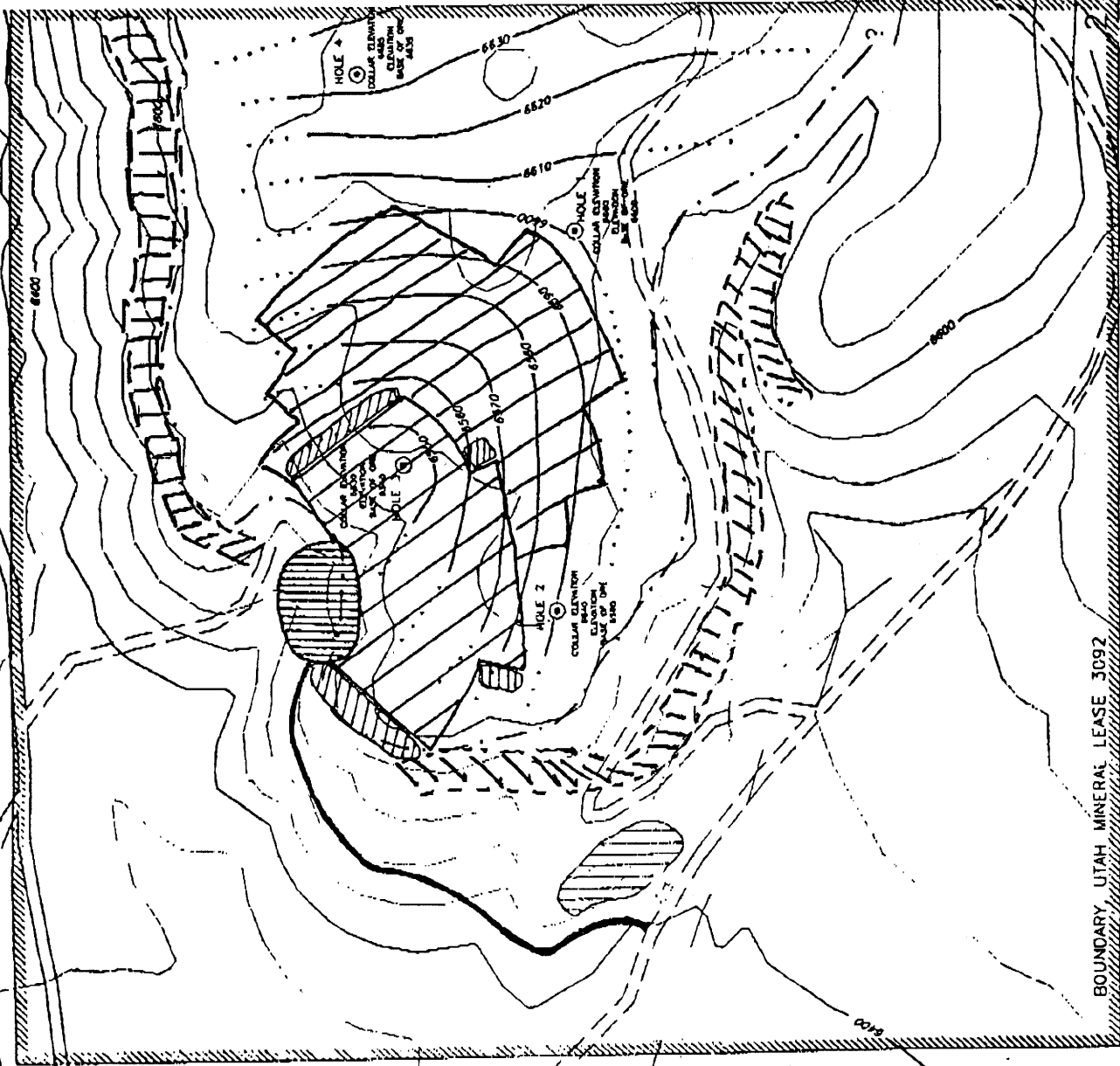
P.O. Box 490

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PROJECT COORDINATOR

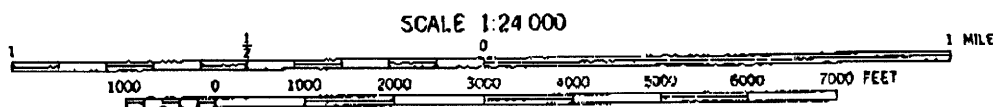
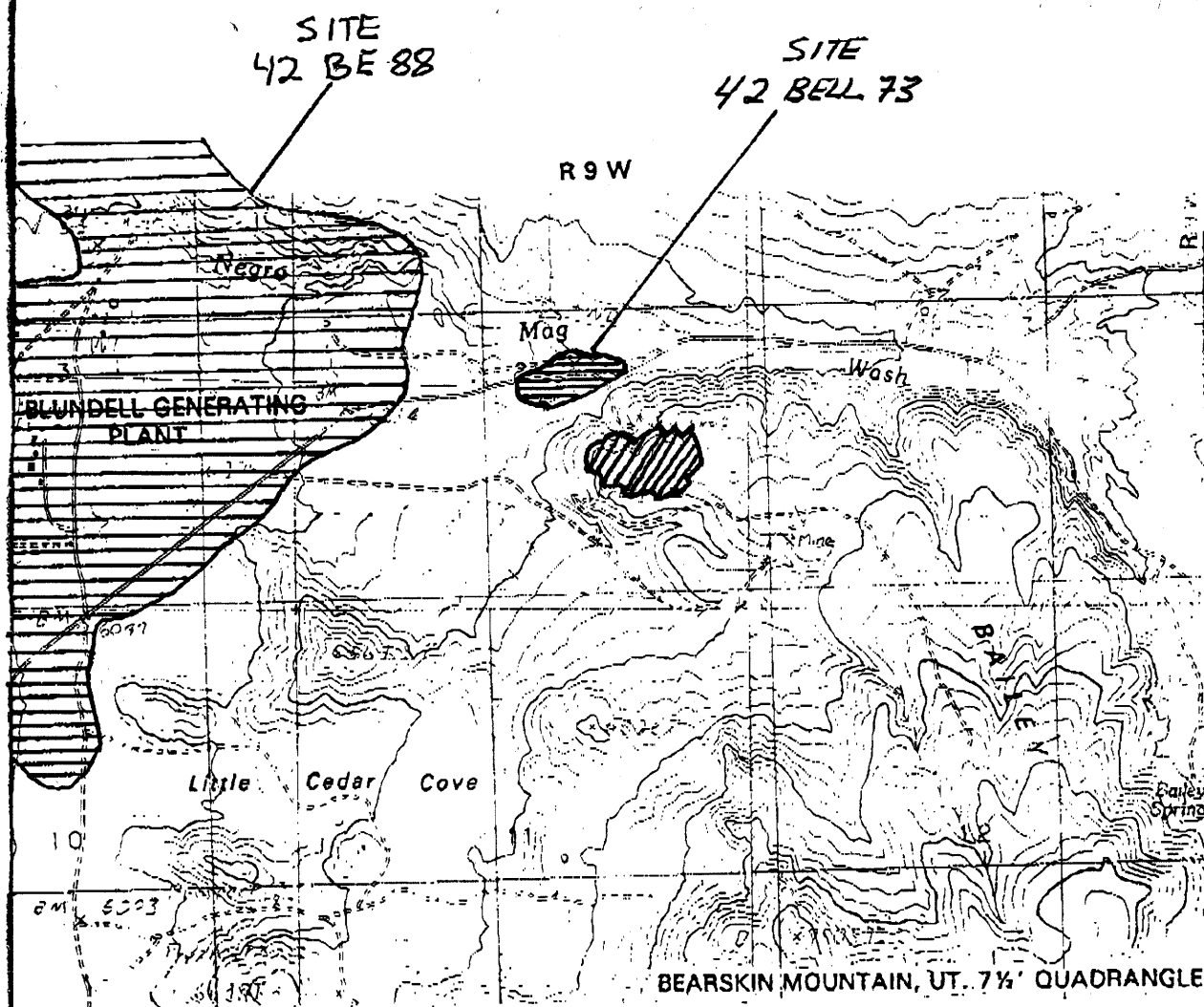
February 10, 1997





BOUNDARY, UTAH MINERAL LEASE 3092

EXHIBIT "E"

MINE AREA IN RELATION TO CULTURAL RESOURCE SITES



TOTAL AREA TO BE DISTURBED YEAR 1-20 — 

ARQUEOLOGICAL SITES IN THE SURROUNDING AREA
AS SHOWN IN SEARCH BY UTAH STATE HISTORIC
PRESERVATION OFFICE AND ABAJO ARQUEAEOLOGY 

NORTH PEARL QUEEN
PERLITE DEPOSIT
MONITOR MINERALS

FIGURE 1
LOCATION MAPS